IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

WP(C).No. 24169 of 2006(B)
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PETITIONER:
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ADVANCED AUTO FUEL INDIA PRIVATE LTD.,
(A COMPANY INCORPORATED UNDER THE COMPANIES ACT,
1956), PILATHARA, KANNUR DISTRICT, REPRESENTED
BY ITS MANAGING DIRECTOR O.K.RAVINDRAN,
S/O.KRISHNAN NAMBIAR, AGED 54 YEARS, CHERUTHAZHAM
P.O., KANNUR DIST.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, DEPARTMENT OF LOCAL
SELF GOVERNMENT, SECRETARIAT, TRIVANDRUM.

2. DISTRICT COLLECTOR, KANNUR.

3. AUTO GAS ENERGY INDIA LIMITED,
HAVING ITS REGISTERED OFFICE AT M.G.ROAD,
RAVIPURAM, COCHIN-16.

ADDL.4. CHIEF CONTROLLER OF EXPLOSIVES, GOVERNMENT
OF INDIA, MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF EXPLOSIVES, NAGPUR, MAHARASHTRA.

(ADD.R4 IMPLEADED AS PER ORDER DTD.31.10.96 IN
I.A.15099/06)

R1, R2 BY GOVT. PLEADER SMT.LAKSHMI RANI
R3 BY SRI.P.FAZIL
SMT.JAYASREE MANOJ
SRI.SREEJITH V.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**APPENDIX IN WPC.24169/06**

**PETIITONER'S EXHIBITS:**

EXT.P1: TRUE COPY OF LETTER A/S/HO/KL/05/42(S24887) DT.8.7.05 ISSUED BY THE CHIEF CONTROLLER OF EXPLOSIVES, NAGPUR.

EXT.P2: TRUE COPY OF CONSENT LETTER DT.28.2.06 ISSUED BY THE 9 RESIDENTS AROUND PROPOSED AUTO LPG DISPENSING UNIT.

EXT.P3: TRUE COPY OF ORDER NO.A2-1086/05 DT.8.8.05 ISSUED BY CHERUTHAZHAM GRAMA PANCHAYAT GIVING CONSENT TO PROPOSED AUTO LPG DISPENSING UNIT.

EXT.P4: TRUE COPY OF NO OBJECTION ISSUED BY THE DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES, KOZHIKODE NO.F-9482/2005 DT.29.8.05.

EXT.P5: TRUE COPY OF CONSENT ISSUED BY THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, KANNUR, NO.B3/37/05 DT.30.8.05 ADDRESSED TO THE DISTRICT COLLECTOR, KANNUR.

EXT.P6: TRUE COPY OF ORDER NO.D4-34049/05 OF THE DISTRICT COLLECTOR, KANNUR ASKING THE PETITIONER TO PRODUCE THE CONSENT LETTER FROM ALL THE RESIDENTS IN THE LOCALITY.

EXT.P7: TRUE COPY OF NO OBJECTION CERTIFICATE NO.M1/16226/04 DT.3/7/04 ISSUED BY THE ADDL. DISTRICT MGISTRATE, WAYANAD ISSUED TO THE 3RD RESPONDENT, ATUO GAS ENERGY (I) LTD. TO START OUTLET AT SULTHAN BATHERY, WAYANAD DISTRICT.

EXT.P8: TRUE COPY OF NO OBJECTION NO.D.DIS.35507/2000/M4 DT.7.11.05 ISSUED BY THE ADDL. DISTRICT MAGISTRATE, ERNAKULAM TO 3RD RESPONDENT TO START OUTLET AT PIRAVOM, MUVATTUPUZHA, ERNAKULAM DISTRICT.

EXT.P9: TRUE COPY OF NO OBJECTION NO.D3.200519200/9/D.DIS. DT.8.12.05 ISSUED BY THE ADDL. DISTRICT MAGISTRATE, PALAKKAD TO THE 3RD RESPONDENT, TO START OUTLET AT VADAVANNUR VILLAGE, CHITTOOR TALUK, PALAKKAD DISTRICT.

EXT.P10: TRUE COPY OF NO OBJECTION NO.D.DIS.33347/2005/M4 DT. 8.12.05 ISSUED BY THE ADDL. DISTRICT MAGISTRATE, ERNAKULAM TO THE 3RD RESPONDENT TO START OUTLET AT AIKKARANAD, KUNNATTOR VILLAGE, ERNAKULAM DISTRICT.

EXT.P11: TRUE COPY OF NO OBJECTION NO.E2-53397/05 DT. 8.2.06 ISSUED BY THE ADDL. DISTRICT MAGISTRATE, IDUKKI TO 3RD RESPONDENT TO START OUTLET AT KUMARAMANGALAM, THODUPUZHA, IDUKKI DISTRICT.

EXT.P12: TRUE COPY OF NO OBJECTION NO.D.DIS.33348/05/M4 DT.8.9.05 ISSUED BY THE ADL. DISTRICT MAGISTRATE, ERNAKULAM TO 3RD RESPONDENT TO START GAS OUTLET AT RAYAMANGALAM, KUNNATHUNAD, ERNAKULAM DISTRICT.

EXT.P13: TRUE COPY OF THE LETTER NO.AGEIL/DC/KNR/01/1055/2005 DT.28.7.05 SEEKING NO OBJECTION CERTIFICATE FROM THE 2ND RESPONDENT, DISTRICT COLLECTOR.

EXT.P14: TRUE COPY OF ORDER NO.D4.34040/05 DATED 9.8.05 ISSUED BY THE 2ND RESPONDENT DISTRICT COLLECTOR KANNUR TO FIVE DIFFERENT STATUTORY AUTHORITIES.

EXT.P15: TRUE COPY OF JUDGMENT DATED 24.2.06 IN WPC.5146/06 OF THE HIGH COURT OF KERALA.

EXT.P16: TRUE COPY OF THE COMMISSION REPORT AND SITE PLAN PRODUCED IN O.S.NO.31/06 OF THE MUNSIFF COURT, PAYYANNUR DATED 23.2.06.

/TRUE COPY/

**THOTTATHIL B.RADHAKRISHNAN, J**

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W.P(C).No.24169 OF 2006

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Dated this the 15th day of February, 2007

**JUDGMENT**

Petitioner, stated to be an agent of the third respondent, applied for issuance of No Objection Certificate by the second respondent in terms of the Petroleum Rules for the purpose of installing an Auto LPG dispensing station. He has obtained necessary clearance from different authorities. The only objection that is taken by the second respondent District Collector is that reflected in Ext.P6, wherein, the petitioner was directed to obtain no objection letters from the residents of the locality. Ext.P6 does not say as to how many residents are intended. It also does not disclose the identity of the residents. Nor does it disclose the persons who have to be identified as the residents for the purpose of any such consent. I say so, because, Ext.P6 does not even disclose as to any particular distance rule, on the basis of which, such prescription is made.

2. A statement is placed on record on behalf of the first respondent, wherein, it is stated that one Mammu Haji, Iysha and Kunjalima, reside within 25 meters from the proposed site and there are other dwelling quarters within a distance of 40 meters from the southern side of the site. It is also pointed out that a high tension power line is passing through the site and that the area is thickly populated and neighbouring people have objected to NOC being given.

3. Objections of local residents by themselves are not criteria to refuse NOC. Any sustainable objection has to be based on lawful grounds. Therefore, because of the objection of the local residents to a fuel filling station, the District Collector cannot refuse NOC. Similarly, the objections referable to any resident has also to be made with reference to any distance rule prescribed by the competent authorities, by statute or otherwise. So much so, having regard to the other materials on record, it is appropriate that the objections, if any, relating to the distance rule are sorted out by the competent authority under the

Petroleum laws, rather than the District Collector sit in judgment on that. It is the petitioner's case that the persons enumerated in the statement filed on behalf of the District Collector and referred to above are fictitious and the District Collector has not even chosen to disclose the identity or house number where they could be located.

4. In the aforesaid circumstance, this writ petition is disposed of directing that the District Collector shall issue an NOC as sought for by the petitioner within a period of three weeks from the date of receipt of a copy of this judgment. He may also indicate in that NOC any specific statement of fact, which may be relevant according to him, including the identity of any particular resident, who, according to him, is within any objectionable distance from the site. He may also indicate regarding high tension power line which, according to him, is passing over the site in question, though no such statement is made in Ext.P6. It is further directed that the competent authority before granting licence to the petitioner will consider

such statements on facts, if any, and take final decision in the matter accordingly. The competent authority under the Petroleum Laws will consider such matter in accordance with statutory rules which are relevant in the context and take final decision at the earliest. In taking such decision, the clearance and NOC granted by all other competent authorities under the specific laws etc. shall also be considered by the Petroleum authorities.

The writ petition is disposed of with the above directions.

**THOTTATHIL B.RADHAKRISHNAN**
**Judge**

kkb.